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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,176	10/14/2005	Jouji Kobayashi	MM5009	6498
1109 7590 09/12/2007 ANDERSON, KILL & OLICK, P.C. 1251 AVENUE OF THE AMERICAS NEW YORK,, NY 10020-1182			EXAMINER BOEHLER, ANNE MARIE M	
			ART UNIT 3611	PAPER NUMBER
			MAIL DATE 09/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,176

Applicant(s)

KOBAYASHI, JOUJI

Examiner

Anne Marie M. Boehler

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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1. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, and claim 4, line 1, applicant claims a "bicycle", however, this is inconsistent with applicant's disclosed invention. Applicant shows and describes a tricycle (having three wheels), not a bicycle (having two wheels). Applicant may mean to recite a velocipede or pedal cycle, but not a "bicycle" as claimed.

In claim 1, lines 3-4, applicant recites turning the handle support and wheel support frame on a turning axi. However, the disclosure describes the handle support pivoting relative to the wheel support frame, not with it.

In claim 2, lines 4-5, "a somewhat upper portion of a lower portion" is unclear.

In claim 4, line 4, recitation of "said front wheels" is unclear because front wheels have not been recited earlier in the claim. Lines 7-11 of claim 4 are unclear. It appears that applicant is reciting a lower shaft engaged with a head tube of the frame and either the head tube or lower portion or both angle relative to vertical, but it is not clear.

2. The disclosure is objected to because of the following informalities: Throughout the specification, applicant refers to a "folding bicycle", however, bicycles, by definition has only two wheels. Applicant's invention is a pedal tricycle with two front wheels and a single rear wheel.

Appropriate correction is required.

3. Claim 4 is objected to because of the following informalities: In line 8, "head tube (11)" should be -head tube (15)-. In line 9, "middle portion 10(a)" should be -middle portion 10(b)-. Appropriate correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Burstow (USPN 248,998).

Burstow shows a pedal cycle steering system with a pair of front wheels a, a', steered by a handle L connected to handle support M, N, C. The handle support includes an upper shaft M connected to the handle and to a lower shaft C by a universal joint N. The lower shaft is engaged with a head tube D that has an inclination that extends backward (see page 1, lines 40-45).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiffany (USPN 5,277,267) in view of Huang (PGPub. 2003/0222424).

Tiffany shows a folding cycle with a handle support 28, a wheel support frame 14 and a connection mechanism 54 that allows the round tubing 14, 16 of the frame elements to turn along a longitudinal axis or be fixed against relative movement.

Tiffany lacks a folding mechanism that allows the user to turn the handle support relative to the wheel support frame about a lateral turning axis.

Huang shows a cycle with a folding handlebar 30. The folding mechanism allows the handle support to pivot relative to the wheel support frame 10.

It would have been obvious to one of ordinary skill in the art to provide the Tiffany cycle with a folding handle support, as taught by Huang, in order to collapse the handlebar for storage.

Regarding claim 3, Tiffany is also silent regarding a footboard on the wheel support frame. Huang shows this feature. It would have been obvious to one of ordinary skill in the art to provide the Tiffany cycle with a footboard, as taught by Huang, in order to provide a stable platform for the rider to place his feet.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Phillips shows a pedal cycle with a frame pivotable about a longitudinal axis and a steering mechanism incorporating a universal joint.

Iavarone shows a frame with round tubing elements and a removable connection element 40.

Wiener, Meneses, Hayashi, Latta, and Kirch show tricycles with two front wheels.

Marble shows a bicycle with a universal joint in the steering support.

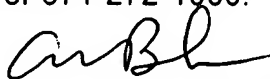
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Chen shows a scooter that converts into a pull cart.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 9/7/07

Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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